

**Remarks**

Claims 1, 3-13 are pending. Applicants have amended claims 1, 10 and 13 herein.

Claims 6 and 12 have been canceled.

Claims 1 and 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slade et al. (U.S. Pat. No. 5,550735) in view of Foresman et al. (U.S. Pat. No. 5,099,422).

Applicants respectfully traverse the rejections and request reconsideration based on the amendments and remarks made herein.

**Rejections under 35 U.S.C. 103(a)**

Claims 1 and 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slade et al. (U.S. Pat. No. 5,550735) in view of Foresman et al. (U.S. Pat. No. 5,099,422). Applicants respectfully renew the traversal of the Office action's previous rejections, however, in order to advance prosecution Applicants have amended claims 1, 10 and 13.

Despite the significant differences outlined below, Applicants submit that neither Slade nor Foresman, alone or in combination, disclose assembly performed in real-time with transmission of the personalized advertisement over the network without interaction by said intended audience. In the first instance, both Slade and Foresman disclose the creation of media on video cassettes or other tangible media that cannot be transmitted over a network. Second, nothing in Slade or Foreman discloses, or suggests, creation of personalized messages (advertisements) in real-time with transmission to the intended audience. As disclosed in Applicants' specification:

These video and audio segments will generally be stored on high capacity, high speed servers 200 Fig. 5, at the highest quality level needed by any of the target media through which the messages will

be distributed. They are available to the assembly operation in "real time" for production "on the fly".

Specification, page 21, ll. 18-21, See also page 12, ll. 5-6. Due to the limited media options disclosed in Slade and Foresman, it would be impossible for each system to be able to assemble the content in real-time with its transmission to the audience. As such, neither Slade nor Foresman, can anticipate the recited features of claims 1, 10 and 13.

Further, Applicants respectfully state that one skilled in the art would not combine the cited teachings of Slade and Foresman because Slade teaches away from both the teachings of Foresman and the claimed invention. Applicants respectfully disagree with the examiner that the "user in Slade's system can best be exemplified as the headend operator who creates advertisements based on demographics." The Office action relies on a single instance of Slade discussing the generation of a report by a user and delivered to a customer to form the basis of the assertion. The Office action, however, ignores the central disclosure of Slade (and Applicants' previous arguments) in that it is the "end-user recipient" who selects the content to be assembled. *Slade* Col. 2, ll. 46-56. All references to the selection and assembly of content refers to the "end-user", not just a user. This distinction cannot be ignored. The sentence identified in the Office action as distinguishing the user from the customer is taken out of context and is irrelevant to the selection of content for assembly. The cited sentence refers only to the generation of a print report – not to the selection and assembly of content. The Office action ignores the fact that the Slade system relies on an "end-user" selection of content to be used in assembly. Under no interpretation of the Applicants' claims can an "end-user" be confused with a system-operator. Further, the Office action fails to identify any disclosure in Slade or the headend operator identifying media segments for assembly. A single sentence in Slade referring

to a user and a customer (in the context of generating a printed report) cannot be taken out of context and applied to the Applicants' claims when the disclosure of Slade is clear that the content is selected by the "end-user."

Applicants further submit that the Office action's reliance on the matrix architecture 501 of Figure 6 as being the same as the advertisement template of Applicants claims is misplaced. The table of Figure 6 is a scheduling device to prevent the overlapping of hardware resources. According to Slade:

the scheduling processor 13 via the routing switcher 42 establishes the matrix architecture 501 by assigning certain ones of the audio, video, graphic resources as a group 581 of destination resources and certain other ones of the audio, video, graphic resources as a group 580 of source resources to insure time sharing usually without simultaneous access unless simultaneous access is otherwise allowed.

Col. 6, ll. 48-55. The matrix is clearly not a template comprising a plurality of media segment slots arranged in time as shown in Figure 6 of Applicants' application.

Based on the foregoing, Applicants submit that the combination of Slade and Foresman is improper, and even such a combination does not disclose every feature of the recited claims. Applicants submit that independent claims 1, 10 and 13 are patentably distinct from the cited references and are in condition for allowance. Applicants further submits that dependent claims 3, 4, 7-9 and 11, by virtue of their dependence on allowable base claims are also in condition for allowance.

### CONCLUSION

For at least the reasons outlined above, Applicants submit that this application is in condition for allowance and requests favorable action in the form of a Notice of Allowance. Please apply any charges or credits to Deposit Account No. 50-1721.

If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Respectfully submitted,

Date: January 26, 2010  
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